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sive power of the Federal Government, and only in exceptional cases can such commerce be regulated under the authority of the State. Such exceptional cases include (1) the establishment and maintenance of means of transportation; (2) the control of persons and property; (3) the regulation of the conduct and liability of those engaged in such transportation when such regulation affects (1) the public generally; (2) those enjoying the benefit of transportation wholly within a State, but not (3) when such regulation affects those enjoying the benefit of the interstate or foreign transportation.

The author has had great difficulty in attempting to reconcile the decisions with the propositions laid down by him, and, in fact, is obliged to admit that it is impossible to reconcile even some of the leading cases. He has, however, with conspicuous ability, argued his points, set forth the unifying principles underlying most of the cases, and with clearness surveyed the dividing line between the power of Congress and that of the States within the domain of the commerce clause, as already drawn by the decisions. His work will not only be of value to the practising attorney, but to the courts themselves, in further interpreting the Commerce Clause.

It is unfortunate that the work on so important a subject—one which to-day engrosses so much of the public mind—should not have been written in a more readable style, and that much that is in the foot-notes, which comprise more than one-half of the printed matter of the book, should not have been incorporated in the text. And it is regrettable that this otherwise commendable work should have been written in the "dry language of the law" and be lacking to so great a degree in that terseness and limpidity of expression and beauty of language which make many of the early law reports attractive reading, and which characterize the work of the great jurist and cultured scholar on the bench.

The author's work is entitled to high praise for its evidences of most patient research and exhaustive study of the numerous authorities, their careful and logical arrangement, the ability with which he has deduced therefrom the underlying principles and has selected for fearless attack such of the authorities as are not based upon sound reasoning.

HANDBOOK OF THE LAW OF EVIDENCE. By JOHN JAY MCKELVEY. Second Edition: St. Paul, Minn.: West Publishing Co. 1907. pp. xvii, 540.

This book is probably the most popular and extensively used of all the books in the Hornbook series. It should prove even more serviceable in its new and enlarged form. The references have been brought down to date. Thus in connection with the subject of Presumption, reference is made to the much discussed charge of Mr. Justice Fitzgerald in *People v. Thaw*, and the author claims, at page 102 in an interesting foot-note, that the learned Justice has misconceived the principle regarding the burden of proof where the question of sanity is at issue. While the citations are not numerous, an examination by the writer reveals a uniform correctness and pertinancy to the point considered in the text—something somewhat unusual in these days of ill-digested and misapplied authorities. Chapters particularly useful are those of judicial notice and admissions, the latter of which has been rewritten and much enlarged since the first edition.

As a rule, the author seems to have accurately and concisely stated the

law, with no attempts at theorizing and but few at criticism, either of which would have been out of place in a work of this kind. The influence of Professor Thayer, under whom we believe the author studied, is manifest throughout the work. Regardless, however, of the question of originality, the work is of value for ready reference or for use in connection with the local digest.

The author is particularly to be commended for having followed the practice, originated, we believe, by Professor Wigmore in his work on Evidence, of concisely stating the gist of each case cited in the foot-notes. Since Professor Wigmore adopted this scheme with regard to the cases cited in the foot-notes of his work on Evidence, there is no excuse for subsequent legal authors accumulating a mass of unexplained citations in the foot-notes to the text of their works.

TRIAL EVIDENCE. By RICHARD LEA KENNEDY. St. Paul, Minn.: Keefe-Davidson Publishing Co. 1906. pp. vii, 49.

The author has attempted to gather in compendious form the more important rules of evidence for rapid reference at a trial. Such a work cannot, of course, represent a contribution to legal theory, or even serve any valuable purpose in disseminating legal principle. It is, perhaps, inevitable that a book with this object should state what is deemed to be the law in a colorless and incoherent fashion. Another fault, perhaps also inherent, is incompleteness. For example, the treatment of the waiver of privilege is so fragmentary as to be practically useless. But the greatest defect of this little work lies in this: That it is written to suit all jurisdictions, and therefore suits none on any of the disputed points in the law of evidence. It is not very solid comfort that is derived by the attorney in the heat of a trial to find the statement that "jurisdictions are not in accord on this point," without even a hint as to which way the decisions run in his particular State. A volume, which makes no pretense of being useful in any other way, except that of an emergency reference, should really profess to be applicable to but a single jurisdiction precisely like other works on practice. We cannot see that this book fills any want not already satisfied by an edition of Stephen's Digest, discreetly annotated with respect to a particular jurisdiction; and it is lamentable but true that, in many instances, it does not fill these wants either so completely or so well.

BOOKS RECEIVED:

THE LAW OF TORTS. By SIR FREDERICK POLLOCK. 8th Ed. London: Stevens & Sons (Chicago: Callaghan & Co.). 1908. pp. xl, 695.

THE LAW OF BAILMENTS AND CARRIERS. By PHILIP T. VAN ZILE. 2nd Ed. Chicago: Callaghan & Co. 1908. pp. lxxiii, 856.

SELECT ESSAYS IN ANGLO-AMERICAN LEGAL HISTORY. By various authors. Compiled and Edited by a COMMITTEE OF THE ASSOCIATION OF AMERICAN LAW SCHOOLS. Boston: Little, Brown & Co. 1908. Vol. II., pp. vii, 823.

THE LAWS OF WAR ON LAND. By THOMAS ERSKINE HOLLAND. K. C. London and New York. Henry Frowde. 1908. pp. viii, 149.